

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MIKIKO KITANI,
Plaintiff,
-against-
ANTHONY CASSELLA, CRAIG COSTA, PIERRE
SYLDOR, and NEW YORK CITY TRANSIT,
Defendants.

Case No. 1:19-cv-01043 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

Defendants Anthony Cassella, Craig Costa, Pierre Syldor, and New York City Transit (together, “Defendants”) moved for summary judgment dismissing the action brought against them by *pro se* Plaintiff Mikiko Kitani (“Plaintiff”). Dkt. 134 (“Mot.”). The Court had previously referred the case to Magistrate Judge Netburn for settlement. Dkts. 113, 114. After repeated adjournments, Judge Netburn scheduled a settlement conference for February 16, 2024, and instructed the parties that if they were “unable to reach an agreement, Defendant shall file its motion for summary judgment by March 15, 2024. Plaintiff shall file her opposition by April 15, 2024. Defendant shall file a reply, if any, by April 29, 2024.” Dkt. 126. Plaintiff did not appear at the February 16, 2024 conference, and Judge Netburn instructed the parties that the summary judgment schedule remained in effect. Dkt. 127.

On May 31, 2024, after seeking and receiving extensions of time from Judge Netburn, Defendants filed their motion for summary judgment, along with one declaration. Mot.; Dkt. 135. Defendants sought, and received, an extension of time to file their remaining declarations, their Local Rule 56.1 Statement of Undisputed Facts, and their memorandum of law; on June 7, 2024, they filed two additional declarations, along with their other

submissions. Dkts. 136-142. Judge Netburn extended Plaintiff's time to file her opposition to July 8, 2024. Dkt. 138.

On July 2, 2024, Plaintiff sought an extension of time to August 30, 2024, which Judge Netburn granted. Dkts. 144, 145. On August 19, 2024, Plaintiff again sought an extension; Judge Netburn extended the time to file her opposition to September 30, 2024. Dkt. 147. Finally, on September 30, 2024, Plaintiff sought an extension to December 20, 2024, representing that she was unavailable through October 19, 2024. Dkt. 148. Judge Netburn extended the deadline to November 8, 2024, explaining that while “[t]he Court appreciates that the Plaintiff is appearing without counsel, . . . five and a half months is an unreasonable period to respond to the motion.” Dkt. 149. Judge Netburn warned Plaintiff that “[n]o further extensions would be granted.” *Id.*

The November 8, 2024 deadline has now passed without Plaintiff filing her opposition or otherwise contacting the Court. Given the repeated extensions that Plaintiff received, and her failure to respond to Defendants' motion, the Defendants' motion will be deemed fully submitted and unopposed if Plaintiff does not file her opposition by **November 20, 2024**. See *Lue v. JPMorgan Chase & Co.*, No. 16-cv-03207 (AJN), 2018 WL 1583295, at *1 (S.D.N.Y. Mar. 27, 2018) (after warning *pro se* plaintiff that unopposed motion would be deemed unopposed and fully submitted if she did not oppose motion for summary judgment, court treated the motion “unopposed and fully submitted”), *aff'd*, 768 F. App'x 7 (2d Cir. 2019)

(summary order); *Falls v. Campbell*, No. 17-cv-00035 (AEK), 2022 WL 1004179, at *2, *4 (S.D.N.Y. Mar. 30, 2022) (same).

The Clerk of Court is directed to mail a copy of this Order to Plaintiff at her address of record. The Defendants are directed to email a copy of this Order to Plaintiff if they have an email address for her.

Dated: November 13, 2024
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge